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STEELMAN *v.* LAFFERTY.

June 8, 1911.

[71 S. E. 524.]

1. **Fish (§ 7*)—Oyster Beds—Easements—Dominant Tenements.**—Where a plaintiff brought ejectment for oyster beds, claiming them as appurtenant to his land, but failed to prove the location of his land, or that it was adjacent to the oyster beds, a judgment in his favor cannot be supported, for the dominant tenement must first be located before the existence of the servient tenement can be determined.

[Ed. Note.—For other cases, see Fish, Dec. Dig. § 7.* 4 Va.-W. Va. Enc. Dig. 910; 4 Va.-W. Va. Enc. Dig. 853.]

2. **Ejectment (§ 111*)—Verdict—Effect.**—As a verdict in ejectment which finds for part only of the lands sued for must designate the boundaries of such property, or refer to some certain standard from which they can be ascertained, a verdict which referred to a declaration which described certain lands, but gave no starting point from which they could be identified, is insufficient to support a judgment.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 327-345; Dec. Dig. § 111.* 4 Va.-W. Va. Enc. Dig. 914.]

3. **Ejectment (§ 90*)—Evidence—Admissibility.**—In an action of ejectment, where oyster beds were claimed as appurtenant to certain upland, evidence of a grant of that same land to one other than the plaintiff is admissible, tending to show an outstanding legal title in some one other than the plaintiff.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 254-277; Dec. Dig. § 90.* 4 Va.-W. Va. Enc. Dig. 908.]

Error to Circuit Court, Northampton County.

Ejectment by A. B. Lafferty against N. B. Steelman. From a judgment for plaintiff, defendant brings error. Reversed and remanded.

Otho F. Meyers, for plaintiff in error.

Gardiner R. Nottingham and *Thos. B. Robertson*, for defendant in error.

ALLISON *v.* CITY OF FREDERICKSBURG.

June 8, 1911.

[71 S. E. 525.]

1. **Negligence (§ 58*)—Proximate Cause.**—To warrant a finding that negligence, or an act not amounting to wanton wrong, is the

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

proximate cause of an injury, it must appear that the injury was the natural and probable consequence of the negligence or wrongful act, and that it ought to have been foreseen in the light of the attending circumstances.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. § 71; Dec. Dig. § 58.* 10 Va.-W. Va. Enc. Dig. 375.]

2. Damages (§ 185*)—Proximate Cause—Evidence.—In an action for injuries from stepping through a hole in a bridge, evidence held to show that the injury was not the proximate cause of the loss of plaintiff's leg, but that it was due to sarcoma, which could not have been reasonably anticipated by defendant.

[Ed. Note.—For other cases, see Damages, Dec. Dig. § 185.*]

3. Damages (§ 19*)—Proximate Cause of Injury—Question for Jury.—Plaintiff stepped into a hole in the planking over a gutter, but there was no apparent mark of injury. Some months later she developed sarcoma of the bone, for which her leg was amputated. The uncontradicted medical testimony was that no such result could have been anticipated from the accident, though it was agreed by the experts that the dormant sarcoma either was or might have been incited by the injury. Held, that the court properly took from the jury the question whether the sarcoma and loss of plaintiff's leg was the natural and probable consequence of stepping through the hole.

[Ed. Note.—For other cases, see Damages, Cent. Dig. §§ 38-53; Dec. Dig. § 19.*]

4. Damages (§ 132*)—Inadequate Damages—Evidence.—In an action for injuries from falling into a hole in a bridge, where plaintiff subsequently developed sarcoma, necessitating the amputation of her leg, held that, the sarcoma, and not the accident, being the cause of the amputation, \$1,200 was a liberal award for the pain shown by the evidence to have been suffered by the plaintiff as the direct and proximate result of the alleged negligence, and therefore the verdict could not be disturbed on the ground of inadequacy.

[Ed. Note.—For other cases, see Damages, Cent. Dig. §§ 372-385; Dec. Dig. § 132.*]

Error to Corporation Court of Fredericksburg.

Action by Maud Allison, by next friend, against the City of Fredericksburg. From a judgment granting insufficient relief, plaintiff brings error. Affirmed.

Wm. W. Butzner and G. B. Wallace, for plaintiff in error.

St. George R. Fitzhugh, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.